

**FILED**

## UNITED STATES DISTRICT COURT

SEP 11 2024

NORTHERN DISTRICT OF OKLAHOMA

Heidi D. Campbell, Clerk  
U.S. DISTRICT COURT① JOSE BOTELLO  
Plaintiff(s)**24 CV - 425 CVE - MTS**

vs.

Case Number: \_\_\_\_\_

② TRIPLE M TRUCK &  
EQUIPMENT  
Defendant(s)**COMPLAINT**

## A. Parties

1) Jose Botello, is a citizen of Oklahoma  
(Plaintiff) (State)who presently resides at 1402 North Quanah  
(mailing address if different from residence)2) Defendant Triple M Truck &  
EQUIPMENT is a citizen of Hermiston, Oregon  
(Name of first defendant) (City, State)and is employed as Operates as an automobile mechanic repair shop  
(Position and title, if any)3) Defendant \_\_\_\_\_ is a citizen of \_\_\_\_\_  
(Name of second defendant) (City, State)and is employed as \_\_\_\_\_  
(Position and title, if any)

[You may attach additional pages (8½" x 11") to furnish the above information for additional defendants.]

## B. Jurisdiction

1) Jurisdiction is asserted pursuant to:

diversity of jurisdiction  
28 U.S.C. § 1332

## C. Nature of Case

1) Briefly state the background of your case:

Defendant is an automobile repair shop. Plaintiff  
is a truck driver who owns other trucks and  
employs another truck driver

## D. Cause of Action

I allege the following:

1. Defendants employees and agents committed

Fraud upon the Plaintiff and his employee in the

Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

Repair of a diesel automobile owned by Plaintiff and driven by his employee truck.

2. Cause of action for negligence *\* See attached pages for additional facts*

Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

3. Defendants employee improperly installed a "used auto part" on Plaintiff's automobile, destroying the motor in said automobile

*\* See attached pages for additional facts*

Supporting Facts: (Include all facts you consider important, including names of persons involved, places and dates. Describe exactly how each defendant is involved. State the facts clearly in your own words without citing legal authority or argument.)

[If necessary, you may attach additional pages (8½" x 11") to explain any allegation or to list additional supporting facts in the same format as above.]

#### E. Request for Relief

I believe that I am entitled to the following relief:

Money judgment against for fraud and negligence in the amount of \$200,000.00, including an award of \$50,000.00 for punitive damages. Plaintiff hereby demands a jury trial. And further intends on retaining an attorney to represent him in this action prior the scheduled trial date.

Original Signature of Plaintiff

1402 North Quarah Ave.

Current Address

Tulsa

OKla.

City

State

ZIP

918 508-0852

Telephone

**V. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

9-09-24

Signature of Plaintiff

Printed Name of Plaintiff

JOSE BOTELLO

**B. For Attorneys**

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address



Attached Page One

both owns and operates at least three separate "diesel automobiles at most times during said time period. Plaintiff usually employs at least two other truck drivers to haul and transport freight and materials across the United States, travelling from New York to Florida, California to the State of Washington, and all States and other areas in between. He and his business are paid money as over-the-road truck drivers, to haul and transport said freight.

That on or about May 2, 2024 one of the truck drivers employed by Plaintiff named "Don Kennedy," while driving a truck owned by Plaintiff in the States of Washington and Oregon experienced trouble with a diesel truck which said driver and the Plaintiff knew and ascertained to be a defective "air compressor. The said Don Kennedy was instructed by Plaintiff to go to a mechanic shop in the State of Oregon and have said mechanic shop install a **"new" air compressor** " in said diesel truck. Mr. Kennedy took the diesel truck which he was driving to the defendant herein Triple M Truck & Equipment, which was located and doing business out of the City of Hermiston, Oregon in order to specifically have a "new air compressor installed in said truck, when in fact they were defrauded with a used and re-conditioned air compressor installed in said diesel truck by said defendant named above-agents and employees installation of a used and re-conditioned air compressor.

Plaintiff has further attached hereto and marked as Exhibit "B" a written analysis and report from an independent mechanic shop in the State of Oregon wherein it is stated that said used and re-conditioned air compressor and the installation of said air compressor by defendant's employees was the cause of "motor failure" in Plaintiff's diesel truck. Plaintiff has further attached hereto and marked as Exhibit "C" a written statement and/or invoice from the Bank of America wherein Plaintiff's employee-the said Don Kennedy was refunded the money he paid to said defendant for said defendant's "fraudulent actions" in charging Plaintiff for a new air compressor, when in fact a "re-conditioned and used air compressor was placed in Plaintiff's automobile.

Attached Page Two

That Plaintiff will further prove at a jury trial in this cause that defendant's employee's negligence and the negligent installation of said re-conditioned air compressor caused the motor in Plaintiff's diesel automobile to malfunction and be destroyed. Plaintiff will further prove at a jury trial in this cause his damages from defendant's "fraudulent actions alone exceed \$100,000.00.

CLAIM TWO CAUSE OF ACTION FOR NEGLIGENCE.

That the Plaintiff hereby adopts all statements, averments, allegations, and Exhibits stated above in his statements contained in Claim One as to his allegations set forth in Claim Two.

That defendant named claims and avers to be an expert diesel mechanic shop and further guarantees its work and/or auto parts to all clients.

That as such of a supposed reputable business defendant owed a duty under the law to perform



Attached Page "~~Five~~" Three

its mechanical work and duties in a proper and professional manner. That defendant and its employees and agents breached that duty owed to Plaintiff by improperly installing said Air Compressor-- supposedley "new, in a deficient and improper. That the improper installation of the deficient air compressor in Plaintiff's diesel automobile to become defunct and deficient and further of no use and/or value to Plaintiff in ~~the~~ his business as a trucking and transport company. That the Plaintiff will prove at a jury trial in this cause that defendants agents improper installation of said defective air compressor into his diesel automobile was a breach of owed by defendants to Plaintiff and that the <sup>breach of</sup> said duty was



Additional Page ~~Six~~ Four

the proximate cause of all monetary suffered and incurred by Plaintiff.

Plaintiff will prove at a jury trial of this cause that his diesel was in proper working condition as to all other parts in said automobile with exception of a defective "air compressor."

Plaintiff will further at a trial in this the ~~at~~ monetary damages which he incurred as a result of defendants employees negligence exceed \$100,000.00.



Ex. 'A'

KJ Medelez LLC  
Work Order

PAID CC *[Signature]*Date: 5-2-24Customer: ADMita MerchantsCompany Name: KJ Medelez

VIN: \_\_\_\_\_

Mileage #: \_\_\_\_\_

Truck #: 5851-C

Yard Dog #: \_\_\_\_\_

Trailer #: \_\_\_\_\_

Reefer #: \_\_\_\_\_

10 Wheeler #: \_\_\_\_\_

Quick connect 2.30

Fitting 35.16

Brake Valve 9.92

Compressor 545.31

ORing 3.72

ORing 7.80

ELBOW 13.62

ORing 1.84

SEAL 10.21

GASKET 4.73

ORing 3.72

ANTI FREEZE ETC 111.00

7x158 LABOR 1,106.00

MISC 55.30

HOSE 56.49

Repair(s) Done: \_\_\_\_\_

1,967.1210 Gallons Antifreezeone New Air Hoseone New FittingsParts: 2 can Breach teesone New Air compressor12 feet one New Air compressor (K095/25) Truck2 New ORings Air compressor Truckone New Gasket Air compressor Truckone O-Ring Truck Air compressor (9336)Mechanic Signature S. Uchicico10 Gallon Antifreeze



# Repair Order Detail - Internal Copy

RO Number: 32080HS

RO Status: WORKING

Customer: ADMIRAL MERCHANTS

Phone(s): Contact: (330)316-1746

Vehicle: 3AKJGLD64ESBC1177

Main: (612)332-4819  
2014 CASClick to View Cust Copy  
Cell:

Mileage: 994,183

Service advisor: 673

Tag number: T1177

Payment type: CASH

Promised time: 11:54 PM

Promised date: 05/28/2024

Waiter: No

Estimate: 330.00

Customer Comments: No

A	Check and Advise-Diagnostic CEL			
	P783R-00-000-- CVD	Check and	2.00	330.00
	0004	Advise-Diagnostic CEL		
	Tech(s):			
	2413			
Pts:		1 BRAKE PARTS CLEANER		3.59
	3.59 Lbr:	330.00 Other:	0.00	Total Line A:
				333.59

Story: 994183 383, Unit came in with complaint of seized engine after compressor replacement. Brought unit in. Talked with driver, driver stated unit had drove into other shop for repair due to compressor not making sufficient air and becoming weak. Unit arrived with oil pan on back deck and oil pump and pickup laid inside. Raised unit up and inspected. Found that #1 main and #1 rod were discolored turned almost black. Material was seen melted off the bearing areas. Pulled #3 main cap off and discovered that the bearing was partially melted and scarred heavily due to loss of oil. Found that compressor was new and only the lower 2 bolts were installed. Removed the lower bolts and drained coolant and removed coolant lines from compressor. Removed compressor from engine bay and inspected. Found that the gear teeth were chewed up like something had gone through the gears. Compressor freely turned with no issues. Further inspection of the gear train from underneath showed that the remaining gears could be seen with chunks of teeth missing. Debris had gone through the gear train at some point. Pulled oil pump from oil pan and found that pump was seized and wouldn't turn freely. Using a brass hammer and point moved the gear slightly to allow for removal of the pump plate bolts. Removed bolts and opened pump body up. Found that housing was heavily scarred and pitted. Gears would not freely spin in housing bores. Excessive play was found in input shaft of oil pump. Appears that debris had contacted gear of pump and drove it against housing causing pump to spin on shaft and causing drop in oil pressure. Examination of the pan showed no big chunks only shaving and gear teeth chunks. No large debris was found. Damage to gear train shows that there should have been a larger chunk present that caused the damage seen in gear train. Took photos and informed customer of findings.

Customer Pay

Labor

Parts

330.00

3.59



EXB

07:04 92%

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https://secure.bankofamerica.com/m

Online Banking

## Message Center

### Claims Messages

Only claims that are eligible are visible  
in the Message Center.

Account and Claim ID	Current Status
Account ending - [REDACTED] Claim ID: 240715533820	Resolved - claim paid



### Important note:

Your claim will be available to view for  
up to 120 days from the date it is  
resolved or closed.

### Case Status



You have no active cases.





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
# Triple M Truck & Equipment


Unclaimed ⓘ • Towing, Commercial Truck Repair, Auto Parts & Supplies

Open 7:00 AM - 6:00 PM See hours

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 Add photo

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Add photo

## Reach out to other businesses

This business has not enabled messa on Yelp, but you can still contact othe businesses like them.

Start request

## Services Offered Verified by Business ⓘ

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Vehicle towing

## Other Auto Parts & Supplies Nearby Sponsored ⓘ



O'Reilly Auto Parts

★★★★★ 5.0 (2 reviews)

5.8 miles away from Triple M Truck & Equipment

Shawn K. said "Awesome store John helped me find the light that I needed and installed it for me. They also have a military discount I will no go any place else thank you. God bless" [read more](#) in Battery Stores, Auto Parts & Supplies

triplemtruckandequipment.com

(541) 567-2009

Get Directions

77765 Westland Rd Hermiston, OR 97838


 Suggest an edit

## About the Business

When you are looking for high-quality towing, parts, and repairs, you need to visit us. We are the newest OEM dealer in Eastern Oregon, and feature Western Star branded large trucks, towing parts service and repair.

Read more

## Location & Hours

Suggest an edit 

The number of  
the statute in  
USCA for  
filing a case based  
on diversity of  
Jurisdiction



08:19

LTE+ 85%



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## Message Center



### Resolved - claim paid

Our records indicate that your claim has been resolved and paid. A letter and/or electronic message has been sent with additional details. An ALERT will be sent to you when your claims letter is available for you to read online.

Thank you for the opportunity to research your claim.

 Claim

ID: 240715533820

- claim  
paid



### Important note:

Your claim will be available to view for up to 120 days from the date it is resolved or closed.

### Case Status



You have no active cases.



All pages necessary to  
file a pro se civil  
lawsuit including the  
cover sheet and summons

> not a civil rights  
lawsuit but a  
"civil <sup>law</sup> suit"

> How much is the  
costs to file the  
suit

Is Marshall  
cost included